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AUTHORITY: 5 U.S.C. 301, 552 and 552a; 31 U.S.C. 9701 and 43 U.S.C. 1460-1461. Appendix F to Part 2 also is issued under 30 U.S.C. 201-209; 30 U.S.C. 351-360.

SOURCE: 40 FR 7305, Feb. 19, 1975, unless otherwise noted.

Subpart A—General Information

SOURCE: 67 FR 64530, Oct. 21, 2002, unless otherwise noted.

§ 2.1 What do the regulations cover?

(a) The regulations implement the Freedom of Information Act (FOIA), 5 U.S.C. 552, and contain the procedures by which the public may inspect and obtain copies of Department of the Interior (DOI or Department) records through the FOIA or by other means.

(b) They apply to all agency records as defined in § 2.3(c).

(c) The policy and procedures set forth in these regulations apply to all bureaus and offices of the Department.

(d) Nothing in the regulations will entitle you to any service or any

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record that is not required to be provided under the FOIA.

(e) These regulations do not apply to records that fall under the law enforcement exclusions contained in 5 U.S.C. 552(c).

§ 2.2 What is DOI's policy regarding release of records under the FOIA?

It is our policy to make records of the Department available to the public consistent with the spirit of the FOIA and the Privacy Act.

§ 2.3 What terms do I need to know?

For the purposes of this part, the following definitions apply:

(a) *Act* and *FOIA* mean the Freedom of Information Act, 5 U.S.C. 552, as amended.

(b) *Agency* means any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Federal Government, or any independent regulatory agency.

(c) *Agency record* means any documentary material which is either created or obtained by an agency in the transaction of agency business and under agency control. See §§ 2.21 and 2.25.

(1) Agency records include:

(i) Books, papers, maps, charts, plats, plans, architectural drawings, photographs, and microfilm;

(ii) Machine-readable materials such as magnetic tape and disks;

(iii) Electronic records (including e-mail messages);

(iv) Audiovisual material such as still pictures, sound and video recordings; and

(v) All other documentary materials, regardless of physical form, format or characteristics.

(2) This definition generally does not cover records of an individual which are:

(i) Created and maintained primarily for an individual's convenience;

(ii) Not subject to agency creation or retention requirements; and

(iii) Not distributed to other agency employees for their official use.

(d) *Bureau* means any major component of the Department administering its own FOIA program. A list of these

components is contained in Appendix A to this part.

(e) *Commercial-use request* means a request from or on behalf of a person who seeks information for a use or purpose that furthers the commercial, trade or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester falls into this category, the bureau will consider the identity of the requester and intended use of the records in addition to any other available information about the requester.

(f) *Direct costs* means those expenses that a bureau actually incurs in searching for and duplicating (and in the case of commercial-use requests, reviewing) records to respond to a FOIA request. Direct costs include, for example, the salary and benefits of the employee performing the work and the cost of operating duplicating equipment. Not included in direct costs are overhead expenses such as the costs of space and heating or lighting of the facility in which the records are kept.

(g) *Duplication* means making a copy of a record, or the information contained in it, to respond to a FOIA request. Copies can take the form of paper, microform, photographs, audiovisual materials, or electronic records (for example, magnetic tape or disk), among others.

(h) *Educational institution* means a preschool, a public or private elementary or secondary school, or an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, or an institution of vocational education, which operates a program of scholarly research. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scholarly research.

(i) *Expedited processing* means giving a FOIA request priority, and processing it ahead of other requests pending in the bureau because a requester has shown an exceptional need or urgency for the records (see §2.14).

(j) *FOIA request* means a written request (this includes facsimile (fax) and electronic mail (e-mail)) made by any

member of the public for Federal agency records.

(k) *Free-lance journalist* means a representative of the news media who is able to demonstrate a solid basis for expecting publication through a news organization, even though not actually employed by it. A publication contract or past record of publication, or evidence of a specific free-lance assignment from a news organization may indicate a solid basis for expecting publication.

(l) *Frequently requested documents* means documents that have been requested at least three times under the FOIA. It also includes documents the agency anticipates would likely be the subject of three or more requests.

(m) *Multitrack processing* means placing simple requests, requiring relatively minimal review, in one processing track and more voluminous and complex requests in one or more other tracks. Requests in each track are processed on a first-in/first-out basis.

(n) *Noncommercial scientific institution* means an institution that is not operated for commerce, trade or profit, and that is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scientific research.

(o) *Privacy Act* request means a written request (paper copy with an original signature) made by an individual for information about himself or herself that is contained in a Privacy Act system of records. The Privacy Act applies only to U.S. citizens and aliens lawfully admitted for permanent residence. Therefore, only those individuals may make Privacy Act requests.

(p) *Published research findings* means research findings that are either:

(1) Published in a peer-reviewed scientific or technical journal; or

(2) Publicly and officially cited by a Federal agency in support of an agency action that has the force and effect of law.

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(q) *Reading room materials* means records (paper or electronic) that are required to be made available to the public under 5 U.S.C. 552(a)(2), as well as other records that a bureau, at its discretion, makes available to the public for inspection and copying without requiring the filing of a FOIA request.

(r) *Representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term “news” means information that is about current events or that is (or would be) of current interest to the public. Examples of news media entities include, but are not limited to, newspapers, television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of “news”) who make their products available for purchase or subscription by the general public. To be in this category, a requester must not be seeking the requested records for a commercial use. Further, a bureau normally will not consider requests for records involving news dissemination to be commercial-use requests.

(s) *Research data* means the recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not such things as trade secrets, commercial information, personnel and medical information and any similar information which is protected under law.

(t) *Review* means the examination of a record located in response to a request in order to determine whether any portion of it is exempt from disclosure. It also includes the deletion of exempt material or other processing necessary to prepare the record(s) for disclosure, including routine consultation among bureau staff and attorneys regarding the applicability of exemptions; and time spent considering any formal objection to disclosure made by a submitter under § 2.23(f).

(u) *Search* means the process of looking for and retrieving agency records and information responsive to a request (manually or by automated means).

(v) *Submitter* means any person or entity outside the Federal Government

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from whom the Department directly or indirectly obtains commercial or financial information. The term includes, but is not limited to individuals, corporations, and state, local, tribal, and foreign governments.

(w) *Workday* means a regular Federal workday. It does not include Saturdays, Sundays, or Federal legal public holidays.

Subpart B—Information Routinely Available to the Public without Filing a FOIA Request

SOURCE: 67 FR 64530, Oct. 21, 2002, unless otherwise noted.

§ 2.4 How do I obtain information routinely available to the public?

A great deal of information is available to the public without filing a FOIA request. Examples are Departmental policies, procedures, and organizational descriptions. The following guidance will help you obtain this information. [NOTE: For copies of records that are not routinely available, you must submit a FOIA request to the DOI office where the records are located. Procedures for requesting records under the FOIA are provided in Subpart C of this part.]

(a) *General.* (1) General information about DOI or one of its bureaus may be obtained by visiting DOI’s home page (see Appendix B to this part for a list of Internet addresses) or by contacting the Office of Public Affairs/Communications for the appropriate bureau (see Appendix A to this part for a list of DOI contacts). Many documents are made available to the public through DOI’s reading rooms. Some documents also may be available in DOI’s electronic reading rooms on the Internet.

(2) Information on DOI’s FOIA Program and a Reference Guide to assist you in obtaining various types of information are available in DOI’s reading rooms, through the FOIA home page, or by contacting the Departmental FOIA Officer.

(3) To obtain information about specific records in DOI, you also may refer to:

(i) The index of documents frequently requested under the FOIA, which is available in DOI’s reading rooms,